

SUSANA MARTINEZ, GOVERNOR



RETTA WARD, CABINET SECRETARY

Notice of Right to Appeal

Administrative Fair Hearings:

You will have the option of requesting an Administrative Fair Hearing at the conclusion of the outside clinical review. An Administrative Fair Hearing is an evidentiary hearing held before an impartial Administrative Law Judge to review any adverse action by DDSD, HSD, the outside clinical review contractor, or the Third Party Assessor.

Making a Request and Timelines:

This hearing is conducted by the HSD Fair Hearings Bureau. You have 90 days from the date of a letter relating to a denial, suspension, reduction, termination or modification of DDW benefits or services to ask for a hearing.

You or your legal representative can ask for a hearing by calling or writing to:

**New Mexico Human Services Department Administrative Hearings Bureau
P.O. Box 2348
Santa Fe, New Mexico, 87504-23248
Telephone: 505-827-8164
Toll-free: 1-800-432-6217, option 6
Fax: 505-827-8157**

Agency Review Conference:

An agency review conference (AC) means an optional conference offered by the DOH to provide an opportunity to informally resolve a dispute over the denial, suspension, reduction, termination or modification of DDW benefits or services. An AC will be attended by you and/or your authorized representative and by a representative of the DOH. You may also bring whomever you wish to assist you during the AC. The AC is optional and shall in no way delay or replace the fair hearing process or affect the deadline for a fair hearing request.

An authorized representative means any individual designated by you or your guardian, if applicable, to represent and act on your behalf. The authorized representative must provide formal documentation authorizing him or her to access the identified case information for this specific purpose. An authorized representative may be, but need not be, your guardian or your attorney.

If a resolution is reached through the AC, DDSD will issue written notification within seven (7) business days of the AC to you, your guardian (if applicable) and your case manager. Unless the fair hearing request is withdrawn by you or your guardian or lawyer, any requested fair hearing will proceed.

Continuation of Benefits:

If you or your legal representative timely request an Administrative Fair Hearing, then your existing services and benefits will remain in effect until the final resolution of any fair hearing decision or appeal.

Preparing for Your Hearing:

At your Fair Hearing, you may raise any challenge to your SIS scores, DDW group assignment, the decision of the outside clinical review contractor or the decision of the Third Party Assessor, or any other matter regarding any denial, suspension, reduction, termination, or modification of DDW benefits or services, or any failure to act with reasonable promptness.

You have the right to be represented by a lawyer of your choice.

You will also have the right to have a friend, family member or spokesperson represent you and/or be present.

Prior to the hearing you will be provided with a summary of the evidence in your case and any other documents on which the decision was based.

You will also have the right to present evidence and witnesses.

If the State introduces the SIS assessment as evidence, the SIS assessor will be present and subject to cross-examination.

If the State introduces the outside clinical review contractor's decision as evidence, a representative of the outside clinical review contractor will be present and subject to cross-examination.

Hearings are usually by telephone. The Fair Hearings Bureau will advise you and your representatives, if applicable, about the date, time, and place of your hearing.

Dismissal of Fair Hearings:

Please be aware that the Fair Hearings Bureau may recommend dismissal of a request for a Fair Hearing if the request is not received in the 90 day deadline, the request is withdrawn or cancelled in writing by the claimant or the claimant's authorized agent, or the claimant fails to appear at a scheduled hearing without good cause.

Additional Appellant Rights:

If a Fair Hearing is held the Administrative Law Judge will render a recommended decision in writing. The Medical Assistance Division Director will then issue a Final Decision in writing. If the Medical Assistance Division Director issues a final decision in favor of the department and against you, the claimant, you will have additional rights of appeal.